

# **Voting Rights in Missouri – The Impact of COVID-19**



A Modified Summary of Testimony from  
Missouri Advisory Committee to the  
U.S. Commission on Civil Rights

October 2020

## **Advisory Committees to the U.S. Commission on Civil Rights**

By law, the U.S. Commission on Civil Rights has established an advisory committee in each of the 50 states and the District of Columbia. The committees are composed of state citizens who serve without compensation. The committees advise the Commission of civil rights issues in their states that are within the Commission's jurisdiction. More specifically, they are authorized to advise the Commission in writing of any knowledge or information they have of any alleged deprivation of voting rights and alleged discrimination based on race, color, religion, sex, age, disability, national origin, or in the administration of justice; advise the Commission on matters of their state's concern in the preparation of Commission reports to the President and the Congress; receive reports, suggestions, and recommendations from individuals, public officials, and representatives of public and private organizations to committee inquiries; forward advice and recommendations to the Commission, as requested; and observe any open hearing or conference conducted by the Commission in their states.

**Missouri Advisory Committee to the  
U.S. Commission on Civil Rights**

**Letter of Transmittal**

**To: The United States Commission on Civil Rights**

Catherine E. Lhamon (Chair)

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**From: The Missouri Advisory Committee to the U.S. Commission on Civil Rights**

The Missouri State Advisory Committee to the U.S. Commission on Civil Rights (hereafter “the Committee”) submits this memorandum "Voting Rights in Missouri - The Impact of COVID-19" as part of its responsibility to examine and report on civil rights issues in Missouri under the jurisdiction of the Commission. This memorandum is a modified summary of testimony resulting from numerous committee meeting discussions and a unanimous vote on June 25, 2020, to take up a proposal to study the extent to which the 2019 Novel Coronavirus Pandemic impacts the right to vote in Missouri.

The state of Missouri has some of the strictest absentee voting laws in the country. During the course of the Committee's research and inquiry leading up to and during meeting discussions in April 2020, it became apparent that there were concerns regarding the impact of and potential additional barriers to absentee voting during the 2019 Novel Coronavirus Pandemic, and the need to investigate potential discriminatory practices and burdens on Missouri citizens' fundamental right to vote. In particular, the Committee expressed concern regarding barriers to voting for already marginalized populations including, but not limited to, people with disabilities<sup>1</sup>, the

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<sup>1</sup> In the 2018 US Commission on Civil Rights Statutory Report, *An Assessment of Minority Voting Rights Access in the United States*, "Persons with disabilities are disproportionately lower income and have less access, compared to voters without disability, to voter ID, transportation, and funds." Further, the report stated that, "Closure of polling places has a significant impact on voter access for people with disabilities. Current Population Survey data from the

working poor, rural and other citizens with limited access to transportation and information.

The Committee chose to study the extent to which the 2019 Novel Coronavirus pandemic impacts the right to vote in Missouri in recognition of both the significance of this right to our democracy and the role that Missouri law and election policy and practices have played in shaping this right, particularly in relation to the Voting Rights Act of 1965. In an effort to focus the project on current barriers, the Committee began by identifying voting regulations instituted since the United States Supreme Court's decision in *Shelby County, Missouri v. Holder*, 570 U.S. 529 (2013) (henceforth "Shelby County"). The Committee then considered the effects of such regulations on the citizens of our state.

The Committee convened a series of public meetings to discuss the potential impacts of COVID-19 on voter access to elections within the state, hearing from twelve (12) panelists during Missouri SAC Briefings held via web-conference on June 25, 2020; July 15, 2020, August 13, 2020; and August 27, 2020. The Committee considered state and local responses to the 2019 Novel Coronavirus Pandemic in an examination of potential disruptions in the election process which could lead to deprivations of the right to vote. Testimony included state and local election officials, advocates, academics, and other election experts.

This memorandum provides a modified summary of that testimony, and was approved by the Committee for submission to the U.S. Commission on Civil Rights, upon final review by Committee Chair, on October 28, 2020, by a vote of 5 yea, 0 nay, with no members abstaining. It does not make specific findings nor offer any specific recommendations.

It is anticipated that the Committee will hear from additional experts, persons representing state and local election officials, civil rights groups, community organizations, and additional Missouri citizens following the November 3, 2020 Presidential General Election, and will thereafter follow-up this memorandum with a report of the Committee findings in effort to assist policymakers with ensuring the voting rights of all of the residents of Missouri are appropriately protected.

Respectfully,  
Elizabeth A. Moran, Chair  
Missouri Advisory Committee to the U.S. Commission on Civil Rights

**Missouri Advisory Committee to the  
U.S. Commission on Civil Rights**

Elizabeth Moran, *Chair, Missouri Advisory Committee*, Kansas City

Mark Bremer, St. Louis

David Mitchell (*past Chair*), Columbia

Chad Flanders, St. Louis

David Rose, St. Louis

Edward Greim, Kansas City

Eliza Straim, St. Louis

Amany Hacking, St. Louis

David Smith, Columbia

Domingo Martinez-Castilla, Columbia

Alisa Warren, St. Louis



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## **Panelists Who Testified During the Missouri Advisory Committee Briefings on Voting Rights in Missouri – The Impact of COVID- 19**

### **Jay Ashcroft**

John R. (Jay) Ashcroft is Missouri's 40th Secretary of State, elected in November 2016. Secretary Ashcroft's background in education, engineering, data protection and the law has provided him with a perspective on election security and has helped shape the efforts of his office. Ashcroft has worked to modernize the Office of the Secretary of State's operating systems, statutes, and administrative rules.

### **Paul DeGregorio**

Paul DeGregorio served as commissioner and as chairman of the United States Election Assistance Commission (EAC) from 2003-2007. At the EAC, Mr. DeGregorio oversaw federal election reform, such as the implementation of the Help America Vote Act and the establishment of the First federal certification of voting systems. Prior to the EAC, Mr. DeGregorio was Executive Vice President of the International Foundation for Election Systems (IFES). He was Director of Elections for St. Louis County, Missouri, USA.

### **Eric Fey**

Eric Fey was appointed Director of Elections in January of 2015 with responsibilities for administering all federal, state, and local elections within St. Louis County, Missouri. Eric is also a member of the National Association of Election Officials, International Association of Government Officials, Missouri Association of County Clerks and Election Authorities, and is a member of the advisory board for the Citizenship Education Clearinghouse at the University of Missouri-St. Louis.

### **Angela Gabel**

Angela Gabel is a Missouri attorney who counsels' clients interested in implementing alternatives to the traditional voting systems. These include proportional systems like ranked choice voting (sometimes known as single transferable voting), limited voting, and cumulative voting.



**Brianna Lennon**

Brianna L. Lennon was elected as Boone County Clerk in November 2018. Prior to her election Brianna served as an Assistant Attorney General in the Consumer Protection Division of the Missouri Attorney General's Office before joining the Missouri Secretary of State's Office. As the Deputy Director of Elections and first coordinator of the Election Integrity Unit in the Secretary of State's Office, she worked closely with local election authorities across the state to ensure that elections were simple, secure, and accessible for voters.

**Denise Lieberman**

Denise Lieberman is a civil rights attorney and nationally recognized expert on voting rights. Most recently serving as Director of Power & Democracy at Advancement Project National Office in Washington DC, a racial justice organization, Denise is also Faculty Director of the Voter Access and Engagement Initiative at Washington University in St. Louis and head of the Missouri Voter Protection Coalition. Denise is also Faculty Director of the Voter Access and Engagement Initiative at Washington University in St. Louis, where she is also an adjunct professor of law and political science teaching courses on constitutional law and voting rights.

**Amber McReynolds**

Amber McReynolds is a leading experts on election administration and election policy, and co-author of the book “When Women Vote”. Amber is the CEO for the National Vote at Home Institute and Coalition and is the former Director of Elections for Denver, Colorado. Amber serves on the National Election Task Force on Election Crises, as an advisory board member for the Massachusetts Institute of Technology (MIT) Election and Data Science Lab.

**Dave Roland**

Dave Roland is the Director of Litigation and co-founder of the Freedom Center of Missouri; he also serves as the Secretary for the Freedom Center’s Board of Directors. Dave has also established himself as one of the preeminent attorneys in Missouri. Prior to founding the Freedom Center, he spent three years working as an attorney and policy analyst for the Show-Me Institute.

**Shane Schoeller**

Shane Schoeller is the Greene County Clerk. He is the former Speaker Pro Tem of the Missouri House of Representatives and represented parts of Greene County during his three terms in the Missouri House. He was the House's second ranking official in 2011 and eventually served as Speaker upon the resignation of then Speaker Steven Tilley. He served on committees that reviewed budget appropriations, utilities, taxation, and revenue, and chaired the disaster recovery committee after the Joplin tornado of 2011.

**Charles Stewart III**

Charles Stewart is a Distinguished Professor of Political Science at Massachusetts Institute of Technology. His areas of expertise include elections; Congress; American politics. Since 2001, Professor Stewart has been a member of the Caltech/MIT Voting Technology Project, a leading research effort that applies scientific analysis to questions about election technology, election administration, and election reform. He is currently the MIT director of the project.

**Rick Stream**

Rick is currently the Director of Elections for the St. Louis County Election Board. He served as a Missouri State Representative from Kirkwood and rose to the position of Chairman of the House Budget Committee, responsible for a \$26 billion budget.

**Hans von Spakovsky**

Hans Von Spakovsky is a senior legal fellow in The Heritage Foundation's Edwin Meese III Center for Legal and Judicial Studies. Before joining Heritage in 2008, von Spakovsky served two years as a member of the Federal Election Commission, the authority charged with enforcing campaign finance laws for congressional and presidential elections. President Donald Trump appointed von Spakovsky to the Presidential Advisory Commission on Election Integrity in 2017.



## I. INTRODUCTION

The U.S. Commission on Civil Rights (Commission) is an independent, bipartisan agency established by Congress and directed to study and collect information relating to discrimination or a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, age, disability, national origin, or in the administration of justice. The Commission has established advisory committees in each of the 50 states and the District of Columbia. These Advisory Committees advise the Commission of civil rights issues in their states that are within the Commission's jurisdiction.

On June 25, 2020, the Missouri Advisory Committee (Committee) to the U.S. Commission on Civil Rights voted unanimously to take up a proposal to study the extent to which COVID-19 is affecting the right to vote in Missouri.

## II. BACKGROUND

Despite the numerous laws and constitutional amendments established to protect voting rights in the United States, many continue to raise concerns regarding disparities in access to and participation in the country's electoral system. The United States Commission on Civil Rights issued a report in 2018 entitled *An Assessment of Minority Voting Rights Access*.<sup>2</sup> Key findings in that report observed "Racial discrimination in voting has proven to be a particularly pernicious and enduring American problem. Voter access issues, discrimination, and barriers to equal access for voters with disabilities, and for voters with limited-English proficiency continue today."<sup>3</sup>

In addition to the barriers and inequalities outlined in the Commission's 2018 report, voters in the United States face a new barrier in 2020: the novel Corona virus known as COVID-19.<sup>4</sup> The virus has caused a worldwide pandemic and has resulted in the death of over 226,000 Americans.<sup>5</sup> Because of social distancing recommendations, Americans may be concerned about the choice between protecting their health and exercising the right to vote.

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<sup>2</sup> U.S. Commission on Civil Rights, *An Assessment of Minority Voting Rights Access* (2018). [https://www.usccr.gov/pubs/2018/Minority\\_Voting\\_Access\\_2018.pdf](https://www.usccr.gov/pubs/2018/Minority_Voting_Access_2018.pdf)

<sup>3</sup> *Ibid.*, 12.

<sup>4</sup> U.S. Commission on Civil Rights, *USCCR Urges Federal Agencies to Vigilantly Enforce Civil Rights Laws During and in the Wake of the COVID-19 Crisis*, (2020). <https://www.usccr.gov/press/2020/04-17-Statement-on-Coronavirus-Federal-Guidance.pdf>.

<sup>5</sup> Centers for Disease Control and Prevention. *Coronavirus Disease Cases in the US*. <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html>

Jurisdictions around the country are having different debates about what to do in the face of the pandemic. In some states, due to stay-at-home orders and social distancing requirements, the political and legal fight right now is focused on lifting the requirement that voters have an excuse to request an absentee ballot. Virginia, South Carolina, New Hampshire, and Kentucky for example, have lifted this requirement in differing degrees.<sup>6</sup>

Missouri is one few states that only allows absentee voting for limited reasons,<sup>7</sup> and is also one of only three states that requires the voter's signature on an absentee ballot to be notarized before returning the absentee ballot to the local election office.<sup>8</sup> Missouri's strict absentee voting laws have been modified during the pandemic.<sup>9</sup> For the November 3, 2020 election, eligible absentee voters can submit their ballot *without a notary signature*. Those eligible include:

- Incapacitated or confined due to illness
- In 2020, has contracted coronavirus or is at risk due to any of the following<sup>10</sup>
  - Is age 65 or older
  - Lives in a long-term care facility
  - Has chronic lung disease/asthma
  - Has a serious heart condition
  - Is immunocompromised
  - Has diabetes
  - Has chronic kidney disease and is undergoing dialysis
  - Has liver disease

Voters are eligible to absentee vote *with a notary* if they meet the following conditions<sup>11</sup>

- Religious beliefs or practice
- Working as an election worker

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<sup>6</sup> National Association of Secretaries of State. *Issue Briefing: Election Emergencies & COVID-19*. <https://www.nass.org/resources/issue-briefing-election-emergencies-covid-19>.

<sup>7</sup> Missouri Secretary of State, Absentee Voting, <https://www.sos.mo.gov/elections/goVoteMissouri/howtovote#absentee>, last visited Nov. 9, 2020 (listing seven reasons for voting absentee in Missouri); National Conference of State Legislatures, *Voting Outside the Polling Place: Absentee, All-Mail and other Voting at Home Options*. <https://www.ncsl.org/research/elections-and-campaigns/absentee-and-early-voting.aspx>.

<sup>8</sup> National Conference of State Legislatures, *Voting Outside the Polling Place: Absentee, All-Mail and other Voting at Home Options*. <https://www.ncsl.org/research/elections-and-campaigns/absentee-and-early-voting.aspx>.

<sup>9</sup> Missouri Secretary of State, Absentee and Mail-in Ballot Informational Flyer, 2020, <https://www.sos.mo.gov/elections/goVoteMissouri/howtovote#absentee>. [h](#)

<sup>10</sup> Ibid.

<sup>11</sup> Supra, note 9.

- Incarceration, if still eligible to vote
- Certified participation in an address confidentiality program
- Absence on election day from your election jurisdiction

Absentee ballots may be requested in person up until the day before Election Day. Ballots may be turned in by mail or in-person and must be received by 7:00 p.m. on Election Day.

Missouri also allows registered voters the opportunity to vote by mail. This “Mail-In” option requires the registered voter to fill out a mail-in ballot application and deliver that application (in-person or by mail) to an election authority. The registered voter receives and fills out the mail-in ballot and must have the return envelope notarized. Unlike absentee ballots, mail-in ballots must be returned through the U.S. mail and must be received by the election authority by Election Day at 7:00 p.m.

The Missouri Advisory Committee met with election officials and policy experts in a series of briefings. Panelists and several committee members questioned whether the notarization requirements, during a pandemic, are necessary or if they represent overly burdensome barriers to absentee voting.

## Summary of Panel Testimony

Questions were raised during the Missouri Advisory Committee meetings about the steps being taken by the state in response to the pandemic, such as: What steps has the Governor or Secretary of State taken to coordinate with state and local officials to identify the potential impacts of COVID-19 on elections? Is the state proactively planning for and coordinating with local authorities to manage all potential disruptions? Following these and other questions the held several web-based briefings<sup>12</sup> that included testimony from nationally renowned experts on elections, Missouri election officials, and representatives from advocacy groups.

### A. In-Person Voting

#### 1. *The Polls*

Traditionally the greatest percentage of voters vote in person. Missouri Secretary of State John Ashcroft testified to the committee regarding Missouri’s normal election operations and changes that have been made during the COVID- 19 pandemic. Secretary Ashcroft said, “We

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<sup>12</sup> Missouri SAC Briefings were held via web-conference on June 25, 2020; July 16, 2020; August 13, 2020; and August 27, 2020.

did not have any evidence of COVID transmission or sicknesses because [of in person voting during the April 2020 primary elections]. And you probably didn't see any newspaper articles about it because we didn't have problems.”<sup>13</sup>

Although Missouri expanded access to absentee and mail in ballots in response to the COVID-19 pandemic, the Secretary of State's office has concentrated on making sure people know that in-person voting is secure.<sup>14</sup> Secretary Ashcroft commented on in-person voting by saying:

It [in-person voting] is not only secure, but it is the best way to make sure your vote counts. You do not have a second chance to change your ballot. If you accidentally marked two offices or leave a slot blank, if you come in and in person and run it through the scanner, it will beep and give you that chance. If you mail in your ballot, you have to worry about the postal service. And we had one lady that mailed her ballot in six days before, and it took 14 days to get back. And of course, if you do it in person, you don't have to worry about notary. You don't have to worry about signature match. And if you are like me, you really like putting your ballot through the scanner and seeing the green light to know that you've done your duty.<sup>15</sup>

Secretary Ashcroft also testified that “...we actually had stories out of Kansas City from public radio remarking on the fact that there were not long lines and that people were able to vote easily and well.”<sup>16</sup>

Hans von Spakovsky, senior legal fellow at the Heritage Foundation, shared Secretary Ashcroft's view that “In- person voting can be conducted safely and is the best way of ensuring those voters are not disenfranchised.”<sup>17</sup> He emphasized that if precautions are followed, in person voting can be held successfully and fulfills both concerns of access and of avoiding fraud.<sup>18</sup>

Mr. von Spakovsky also pointed to other nations that have successfully held in-person voting, such as South Korea, stating, “[South Korea] held a national election April 15, 2020 in which 29 million votes were cast in- person, using the same types of safety protocols...and there were no reported increases in infections.”<sup>19</sup> Mr. von Spakovsky also told the committee that “A report released by analysts from the World Health Organization and Stanford University after the Wisconsin election found no detectable surge [in COVID- 19] transmissions due to the April 7 election, and in fact

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<sup>13</sup> Ashcroft Testimony, MO August 13 Briefing, p.22.

<sup>14</sup> John Ashcroft, Missouri Secretary of State, Briefing Before the Missouri Advisory Committee to the U.S. Commission on Civil Rights, Web-Briefing, MO, August 13, 2020, transcript, p.24 (hereafter cited as MO August 13 Briefing.)

<sup>15</sup> Ashcroft Testimony, MO August 13 Briefing, p.24.

<sup>16</sup> Ashcroft Testimony, MO August 13 Briefing, p.13.

<sup>17</sup> Hans von Spakovsky, Briefing Before the Missouri Advisory Committee to the U.S. Commission on Civil Rights, Web-Briefing, MO, August 27, 2020, transcript, p.3 (hereafter cited as MO August 27 Briefing.)

<sup>18</sup> Ibid.

<sup>19</sup> Ibid.

there were fewer cases reported during the incubation period after the election (April 9-21) than in the 13 days preceding the election”<sup>20</sup>

Not all the panelists shared this optimism. Denise Lieberman, a civil rights attorney and nationally recognized expert on voting rights, said the COVID-19 pandemic presents an existential threat to the right to vote in Missouri, as well as across the country.<sup>21</sup> She opined that “no one should have to choose between exercising their fundamental right to vote and their health.”<sup>22</sup>

Ms. Lieberman agreed that election officials have taken steps to “ensure safe and accessible access to the ballot for Missouri voters this year amid the pandemic,”<sup>23</sup> “But unfortunately”, she continued, “I would submit that while Missouri has taken some steps to provide accommodations to voting in acknowledgement of the risks posed by the COVID-19 pandemic, I would submit to you that these measures are insufficient, are needlessly complicated, are needlessly confusing, and overall leadership and guidance from our state's leaders, including our state's chief elections official has been lacking.”<sup>24</sup>

When asked about his chief concern about the November elections, Paul DeGregorio, former Chairman of the United States Election Assistance Commission, stated “In my view, it's in-person voting, and that's based on what I have seen in elections conducted so far in the US in the past few months, and also in other countries, that because of the consolidation of polling places, because some places don't want to be used as a polling place, they won't allow it. They are not a government facility. They could say no.”<sup>25</sup>

Mr. DeGregorio testified that South Korea was a success story during the pandemic, as it actually had higher voter turn-out than usual but noted the population of South Korea is over 50 million, substantially more than any individual US state. He noted: “South Korea's success was because of widespread access to early voting sites and very strict measures at polling places where everyone had to socially distance, everyone had to wear a mask and use hand sanitizers at various points in the voting process”<sup>26</sup>

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<sup>20</sup> Ibid.

<sup>21</sup> Lieberman Testimony, MO August 27 Briefing, p.4.

<sup>22</sup> Ibid

<sup>23</sup> Ibid

<sup>24</sup> Ibid

<sup>25</sup> Paul DeGregorio, Briefing Before the Missouri Advisory Committee to the U.S. Commission on Civil Rights, Web-Briefing, MO, July 16, 2020, transcript, p.29 (hereafter cited as MO July 16 Briefing.)

<sup>26</sup> DeGregorio Testimony, MO July 16 Briefing, p.23.



Mr. DeGregorio told the committee it is “unlikely that the Missouri legislature will make any new election laws before November”<sup>27</sup>. He suggested the committee focus on “what Missouri election officials are doing to implement the new law allowing balloting by mail and how they're going to provide safety for voters at polling places.” He noted that Missouri's 116 election jurisdictions may follow the same laws, but they can provide different access opportunities. According to Mr. DeGregorio, “St. Louis County has perhaps taken the greatest leadership in Missouri providing as much access as possible for its voters during this COVID crisis. Most counties in Missouri have not followed their lead, although it should be said that most county clerks in Missouri do not have the same challenges faced in urban areas, and they also tend to be responsive to voters because they stand for election every four years and are held accountable.”<sup>28</sup>

Rick Stream, Director of Elections for St. Louis County (Rep.), informed the committee of the changes made to the in-person voting process and safety measures that have been put in place to mitigate the spread of Covid-19.<sup>29</sup> Throughout his testimony, Mr. Stream detailed the logistics of the new safety measures and their effectiveness, for example he told the committee: “At the polling places, and this is important, all the workers are wearing masks and gloves. They are wiping down surfaces with alcohol. Disinfecting and cleaning the styluses and pens after each use. There is hand sanitizer at each polling place for the voters to use. And there are also always social distancing strips placed on the floors. This is what we did in June.”<sup>30</sup>

Mr. Stream made clear that the polling stations within St. Louis County are following CDC Guidelines just as other businesses that have been allowed to resume operation. Although St. Louis County reduced the number of polling stations for the June 2nd general municipal election, Mr. Stream indicated that, “We were able to staff those sites completely with no problems. Our plan is to increase the number up to 200 sites in August, and then a larger number for the November presidential election. All of our polling place selections are done with the proximity to the public transit lines in mind. In other words, we know that some of our voters have trouble with transportation issues”<sup>31</sup>

Mr. Stream also said “We also have curbside voting here at the office that goes on the entire six weeks prior to the election when absentee ballot is in effect. Curbside voting gives constituents additional in- person voting options if they do not feel completely comfortable voting at a polling

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<sup>27</sup> Ibid.

<sup>28</sup> Ibid.

<sup>29</sup> Stream Testimony, MO July 16 Briefing, p.15.

<sup>30</sup> Ibid.

<sup>31</sup> Ibid.

station but want to ensure that their ballot is as secure as possible.”<sup>32</sup> He also noted that this option has been in place for over 3 ½ years, indicating that it is something the election workers are comfortable with and see as an effective option.

Eric Fey, Director of Elections in St. Louis County (Dem.), confirmed the precautionary measures that have been put in place for St. Louis County. He testified that “Under Missouri law, a public tax supported building cannot refuse to be a polling place.”<sup>33</sup> This ensures that there will be spaces available to serve as polling stations for future elections during the pandemic.

Charles Stewart III, MIT Director of the Caltech/MIT Voting Technology Project, identified a trend that his team is discovering around the country, “consolidation of polling places and places like Wisconsin, are coming at the expense of the convenience and proximity of voting to communities of color. We need to be very seriously attuned to any policy that does not give voters as much flexibility as possible in this coming election. Whether a state adopts these policies of encouraging vote by mail permanently, to me, is off the table. It is really irrelevant for these discussions. The question is, what do we do with this continuing emergency that will no doubt be with us in November, as well as it is in the summer.”<sup>34</sup>

In Missouri, the County Clerk is an elected official who is responsible for keeping accurate records of the orders, rules, and proceedings of the County Commission. In addition, the County Clerk is responsible for inspecting and reviewing all voter precinct boundaries within the County and conducting elections. The Missouri Advisory Committee invited a bi-partisan set of County Clerks to provide testimony on local elections at the county level.

Brianna Lennon, Boone County Clerk, explained to the committee that her concern is “not more people in the lines, but it is more distance. So, it requires more space. So moving into November, I am concerned when I look at the polling places that we have, whether they can accommodate the lines that I expect to have, because, while we did have a healthy turnout in August of about 30%, we in Boone County get closer to 80% during the November election. So, we're doing the best we can to almost double our poll working stations or pulling places. We're also looking at incorporating some satellite locations for absentee voting in order to get people to cast their ballot earlier, if possible, to try to lessen the number of people that are actually going to be showing up on Election Day.”<sup>35</sup>

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<sup>32</sup> Ibid, at p.18.

<sup>33</sup> Fey Testimony, MO July 16 Briefing, p.16.

<sup>34</sup> Charles Stewart III, Briefing Before the Missouri Advisory Committee to the U.S. Commission on Civil Rights, Web-Briefing, MO, June 25, 2020, transcript, p.12 (hereafter cited as MO June 25 Briefing.)

<sup>35</sup> Lennon Testimony, MO August 13 Briefing, p.4.

Ms. Lennon added, “in-person voting went very smoothly in Boone County for the August election, and that the county plans on almost doubling polling places for November to accommodate for the increase in voter turn-out of about 50%, Boone County has a population of 180,463, significantly higher than the Missouri average of 52,078, Boone County has still managed to make in- person voting work thus far.”<sup>36</sup> Ms. Lennon said, “there are challenges when you start pushing voting by mail for all of those individuals.”<sup>37</sup>

Shane Schoeller, Green County Clerk, discussed with the committee the average processing time for a voter. He noted, “We went back to August of 2018, 56 seconds on average check to check in the voter. But then when you get to November that year... it appears they probably cut some of the conversation because it then went down to 39 seconds per voter to check in once you get to November. Now both in March and August of [2020], the average time to process of voter was 53 and 59 seconds per voter.”<sup>38</sup>

Mr. Schoeller pointed out that the analysis indicates, at least for Green County, that “the wait times for in-person voting are not substantially longer during Covid- 19 and that polling stations can accommodate safety measures.”<sup>39</sup> There was a lower voter turnout in April 2020 than from 2016, but Mr. Schoeller stated “the county will take steps to let voters know that voting in- person will be safe and clean.”<sup>40</sup> He further elaborated on this point, testifying, “We let them [voters] know that we had two additional election judges at every voting location that we're going to be cleaning and sanitizing the voting services, the pens that they're using to vote on the ballot, as well as the touch screen equipment. That were going to be cleaning the entrances into the phone and location in terms of the door handles and everything.”<sup>41</sup>

## **2. Poll Workers**

Some of the panelists testified about their concerns about poll workers. Mr. DeGregorio said “in some jurisdictions, the lack of poll workers, people canceling, is going to result in funneling people to fewer polling places and people deciding for whatever reason that they don't want to vote by mail, either they don't trust it, or they want to go to the polling place, that there could be long lines and people getting discouraged from voting.”<sup>42</sup> He gave the committee an example by stating “We saw this in Milwaukee when they decided to go through with their primary election this spring,

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<sup>36</sup> Ibid.

<sup>37</sup> Ibid.

<sup>38</sup> Schoeller Testimony, MO August 13 Briefing, p.5.

<sup>39</sup> Ibid, at p.5.

<sup>40</sup> Ibid.

<sup>41</sup> Ibid.

<sup>42</sup> DeGregorio Testimony, MO July 16 Briefing, p.29.

and people waiting four to five, six hours to vote. I mean, that's unconscionable. I think that's my biggest fear of what might happen in the US and that people might get discouraged and leave.”<sup>43</sup>

Charles Stewart also had concerns about poll worker. He observed, “we're losing poll workers. In Missouri in 2016, 66% of your poll workers were over the age of 60, and 31% were over the age of 70. We're seeing nationwide that poll workers are refusing to work, being concerned about health. In Anchorage, Alaska, their election director recently testified that they have lost 95% of their poll workers.”<sup>44</sup>

Despite the observations made by Dr. Stewart, Rick Stream did not testify to any forecasted shortages, instead he said “we do not foresee any problems with getting enough poll workers, but it's a continuous daily battle because we have people canceling, and then we have to recruit more folks. So, but we think we will be able to do it.”<sup>45</sup>

Eric Fey, Mr. Stream's counterpart in St. Louis County added:

When I mentioned those things [poll worker shortages] to groups or to folks in the general public, they say, ‘Well, I could work, or we could get some college students to work. They're maybe not in school right now.’ And normally, that would be great. But right now, training the poll workers is a major obstacle as well. For the June election, as Rick mentioned, we conducted significant online training and we had about half the poll workers train in person, but they were all folks who had worked before. So, it was just a refresher training. In order to bring on a new poll worker, they really need hands-on in-person training. They need to learn how to set up the equipment, how to take it down, all those types of things.<sup>46</sup>

Mr. Fey also told the committee about a COVID outbreak in the county offices that led to a shut down of in-person training. “Right now, it's gone all online and it is really not advisable to train a new poll worker completely online because they won't really have any hands-on experience on what to do on election day. So that's why, as Rick said, we're confident we're going to be able to staff our polling places for August because of the consolidations we've had. And again, we hope that the significant increase in absentee voting will ameliorate any possible overcrowding at polling places.”<sup>47</sup>

Ms. Lennon also described how Boone County is dealing with polling stations and workers, testifying, “We were very fortunate to have the same number of polling places as we had for August of 2016. So, we had 45 locations around Boone County, and we had a lot of interests from high schoolers and former poll workers, experienced poll workers that wanted to continue serving.

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<sup>43</sup> Ibid.

<sup>44</sup> Stewart Testimony, MO June 25 Briefing, p.11.

<sup>45</sup> Stream Testimony, MO July 16 Briefing, p.15.

<sup>46</sup> Fey Testimony, MO July 16 Briefing, p.19.

<sup>47</sup> Ibid., 20.

So, we did push very hard and did a pretty extensive educational recruitment campaign to get more poll workers. And it worked very well. We had a couple locations that had lines, but they moved pretty quickly”<sup>48</sup>

## **B. Mail-in and Absentee Voting**

### ***1. Mail-in vs Absentee Voting***

In Missouri, any registered voter can request a *mail-in* ballot, while *absentee* ballots are only for eligible voters that meet strict criteria. The issue of in-person vs absentee/mail-in voting was discussed by several panelists.

Dave Roland, co-founder of the Freedom Center in Missouri, testified about the potential impact of COVID-19 on vote by mail in the November election. He said “I’m quite concerned that the risk of infection is very likely to discourage large numbers of people from going to vote in-person. And if these people are not afforded this alternative means of casting their ballot [vote by mail], I think a lot of people will feel disenfranchised and it may cause some people to feel that the results of an election are not truly representative of the will of the people. And that starts to chip away at the idea of the legitimacy of the election’s outcome.”<sup>49</sup>

Secretary Ashcroft also noted in his testimony that concerns about absentee/ mail-in ballots are not just an issue during the pandemic: “we always have at least 2% of absentee ballots that are not counted for some reason. We should not be pushing people to use absentee and mail in ballots that are inherently more likely not to be counted.”<sup>50</sup>

Secretary Ashcroft also noted that in 2016 “about 3.5% of absentee ballots went uncounted. Not accounting for the increase in process related issues and time constraints, that would be around 73,500 ballots if mail-in ballots were to reach a 50/50 ratio with in-person. This assumes the state has 4.2 million registered voters and this would be even higher in states with larger populations.”<sup>51</sup>

Continuing on this theme, Mr. von Spakovsky expressed concerns with mail-in voting, testifying that, “According to those EAC (U.S. Election Assistance Commission) reports, in the last four federal elections (2012, 2014, 2016, and 2018), almost 1.3 million mail ballots that were received

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<sup>48</sup> Lennon Testimony, MO August 13 Briefing, p.4.

<sup>49</sup> Roland Testimony, MO June 25 Briefing, p.28.

<sup>50</sup> Ashcroft Testimony, MO August 13 Briefing, p.25.

<sup>51</sup> Ibid.

from voters were rejected by election officials. Over 2 million ballots sent to voters were undeliverable and the fate of over 28 million ballots sent to voters was unknown. The EAC defines unknown ballots as those that were not returned by voter, spoiled, returned as undeliverable, or otherwise unable to be tracked.”<sup>52</sup>

Despite the concerns about security of mail-in and absentee voting, some panelists saw a dual concern of protecting one’s health and voting. Dr. Stewart of MIT said “I don’t need to tell anybody on the committee that the challenge facing the nation, Missouri, and every other state is how to create a safe environment for voting in November. That safe environment involves applying social distancing principles to this election. In turn, the strategies behind doing that involve, first of all, reducing dramatically the density of polling places by increasing mail balloting.”<sup>53</sup>

Dr. Stewart continued, “...secondly, ensuring the health of those who either choose to, or must, vote in person. I think that both of these imperatives, decreasing density in polling places through increasing mail balloting and ensuring the health of those who vote in person, are a consensus within the election community, both practitioners, and those of us who endeavor to assist practitioners and people of all political parties and of all intellectual backgrounds and persuasions.”<sup>54</sup>

Denise Lieberman, civil rights attorney, and nationally recognized expert on voting rights, indicated a shortage of options for voters. She opined “We also argue that voters should have multiple options for requesting, receiving, and returning mail ballots. That is another insufficiency of both the existing and the new law in particular, with respect to mail in ballots. It provides that in order to request a mail in ballot, the only way that request can be made is through the mail or in person.”<sup>55</sup>

In contrast, she said, “absentee ballots may be requested over email or by fax. In addition, mail ballots, once they are completed, may only be submitted back to the election authority by mail. And again, those have to be notarized. Whereas absentee ballots can be submitted by mail or in person.”<sup>56</sup>

The combination of these things in tandem with very strict deadlines, both for receiving and returning the ballot request and returning a completed ballot, will serve to make this process a very difficult, confusing, and ultimately elusive for many voters.

During the June committee briefing, Ms. Gable confirmed for the committee the “unwieldy” mail-in ballot process. When asked by committee member Chad Flanders “So, my understanding is they

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<sup>52</sup> Von Spakovsky Testimony, MO August 27 Briefing, p.5.

<sup>53</sup> Stewart Testimony, MO June 25 Briefing, p.9.

<sup>54</sup> Ibid.

<sup>55</sup> Lieberman Testimony, MO July 16 Briefing, p.

<sup>56</sup> Ibid.

would first have to either go in person or mail a request for a mail in ballot. Then they would have to get it notarized. And if they wanted to do that remotely, would they then have to mail the ballot to the notary so that the notary could sign the envelope. Then the notary would have to mail it back to the voter who would then have to mail it, I think I'm now at a third time, to actually have his vote be counted. Is that correct? Am I getting the number of steps, right?" To which Ms. Gable responded, "You got it all correct."<sup>57</sup>

Ms. Lennon discussed the impacts of COVID-19 on the voting process and the absentee/ mail- in voting increases she has seen within her county. She stated that handling the influx of mail- in ballots is a "very manual process" and "it is extremely time consuming when you are already pressed for time and have limitation in how many staff you have."<sup>58</sup>

Shane Shoeller added, "Because one of the things I think Brianna and I talked about is that we're not prepared yet to be able to make that complete transition, to voting by mail as opposed to voting in person. And so really as we head towards November, ideally if we could have about 30% of all of our voters vote ahead of election day, whether that's 30 going person absentee or it's choosing to go mail, if we have what I would anticipate this would be a good turnout for Green County, 70% turn up November."<sup>59</sup>

Mr. DeGregorio told the committee, "because of these mail ballots being counted, and in some states they don't begin the counting until election night... it could take days to finally figure out who might win the election and it could cause some consternation in this country. I don't know whether to use the term chaos, but it can shake us to our foundation on trusting the results where one group doesn't trust the result."<sup>60</sup> Mr. DeGregorio also affirmed Ms. Lieberman's concern of the troubles mail- in voting might cause for rural Missourians or those without internet access by stating "36.6% percent of the state resides in rural counties and almost 400,000 residents do not have broadband internet access."<sup>61</sup>

Ms. Lieberman told the committee mail-in voting would disenfranchise voters that would otherwise be counted if had they voted in- person.<sup>62</sup> She also voiced concerns about the inability of the postal service to handle the increase in ballots, claiming she not only thought this will be a future issue, but she also noted that it has already been an issue in previous elections.<sup>63</sup> Additionally, Ms. Lieberman said, "studies show... that people who are voting by mail for the first

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<sup>57</sup> Gabel Testimony, MO June 25 Briefing, p.36.

<sup>58</sup> Lennon Testimony, MO August 13 Briefing, p.4.

<sup>59</sup> Schoeller Testimony, MO August 13 Briefing, p.8.

<sup>60</sup> DeGregorio Testimony, MO July 16 Briefing, p.29.

<sup>61</sup> Ibid.

<sup>62</sup> Lieberman Testimony, MO July 16 Briefing, p.9.

<sup>63</sup> Ibid.

time and disproportionately voters of color, African American and Latinx voters, are more likely to have those ballots rejected due to errors in the numerous forms and paperwork.”<sup>64</sup>

Shane Schoeller, speaking of the confusion over mail-in ballots, said, “To be frank, the biggest challenge we've had, and I assume it's been the same as Boone County, is the mail-in ballot. People really didn't understand that they had to mail that ballot and that they could not drop it off.”<sup>65</sup>

Mr. Shoeller added, “Now, the solution when that happened as we got towards Election Day, was we would score that ballot, assuming that they could qualify underneath one of the absentee reasons. And if that one of the seven reasons worked for them, we could score it and vote them in-person. That has probably been the biggest challenge, is confusion of the mail-in ballot option of not only the issue of notarization, which has to my knowledge not been an issue as Brianna said anecdotally. But it has been an issue in terms of interim to drop that off.”<sup>66</sup>

Dr. Stewart told the committee that expanding mail-in voting is costly, “There are transitional costs that need to be considered. Certainly, in equilibrium, there are savings to be had by going to vote by mail there are organizational personnel, financial costs of making a transition, any sorts of big transition, which needs to be considered.”<sup>67</sup>

In Missouri, the deadline to request an absentee ballot, the second Wednesday before election day, is the date by which that request must be received by the election authority. Similarly, the deadline to return a completed ballot, which again, for many voters must be notarized, is the close of polls on election day. Ms. Lieberman thought, “Missouri should join the many States that, instead, reflect the date that the ballot is postmarked as the valid date. Voters should be held harmless for delays in the mail.”<sup>68</sup>

Mr. Fey told the committee, “During the June election we had almost 76,000 absentee ballot applications for June. We have already surpassed that number for the August election. I think we'll have over 80,000 absentee ballot applications just for the August election. And just to put that in perspective, the last August election in 2018, we had just over 20,000 absentee ballot applications. In the August election in 2016, before the 2016 presidential election, we had just over 15,000 absentee ballot applications. So, we are in, like so many other things with the coronavirus, we're really in uncharted territory here”<sup>69</sup>

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<sup>64</sup> Ibid.

<sup>65</sup> Schoeller Testimony, MO August 13 Briefing, p.19.

<sup>66</sup> Ibid.

<sup>67</sup> Stewart Testimony, MO June 25 Briefing, p.17.

<sup>68</sup> Lieberman Testimony, MO July 16 Briefing, p.8.

<sup>69</sup> Fey Testimony, MO July 16 Briefing, p.16.



## 2. *Notarization*

Angela Gable told the committee she had a narrow topic that she wanted to discuss, “Missouri’s notarization requirement for absentee and mailing voting.”<sup>70</sup> Ms. Gable shared a recent experience she had with a client, “and as you know, Missouri does allow an electronic notary. So, I’ve worked with that a little bit and realized how difficult it is. I ended up not doing an electronic notary and ended up having to do an in-person notarization with my client just to get it done. So that kind of got me interested in Missouri’s notarization requirement broadly as it relates to this November’s election and whether it’s legally sound, practical, and healthy.”<sup>71</sup>

Ms. Lieberman said the state’s exemption for notarization,

...does not include all of the categories for whom CDC deems at risk. It only allows people to vote absentee without a notary if they meet some of the risk categories, including all voters over the age of 65, people who are immunocompromised, liver disease, kidney disease, heart disease, severe lung disease, but for example, it doesn’t include people with hypertension estimated to be about half of the population who are at elevated risk or smokers who are at elevated risk, people who are pregnant, people with sickle cell disease and other at risk categories, and it also doesn’t cover people who may not meet one of those risk factors themselves, but perhaps live with a family member who is vulnerable. And those voters actually make up the plaintiff pool in a lawsuit that the Missouri Voter Protection Coalition filed in collaboration with the ACLU, arguing that all voters should be exempt from the notary requirement.<sup>72</sup>

Denise Lieberman added that some have argued that the notary requirement to vote, both with respect to some of the other absentee provisions, as well as for mail in ballots is unconstitutional amid this Pandemic. She said, “the very same reasons that we should be staying home socially distant that make it unsafe to congregate in crowds at the polls also suggests that voters should not have to go out in person of people outside of their immediate sphere of individuals to get an absentee ballot notarized or a mail in ballot notarized.”<sup>73</sup>

Ms. Lieberman also said, “I will also note that while Missouri law makes it illegal for notaries to charge to notarize absentee ballots, there is no such prohibition for the new mail ballot scheme, allowing notaries to thus charge voters to notarize those ballots. We’ve received reports of voters experiencing great difficulties finding available notaries in the midst of all the business and government shutdowns, and some have been charged significant amounts.”<sup>74</sup>

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<sup>70</sup> Gabel Testimony, MO June 25 Briefing, p.23.

<sup>71</sup> Ibid.

<sup>72</sup> Lieberman Testimony, MO July 16 Briefing, p.7.

<sup>73</sup> Ibid.

<sup>74</sup> Ibid, p.8.

### 3. *Mail Service*

Brianna Lennon shared her concerns about mail service, “Regarding the mail...it's something that is in the forefront of my mind as we're making all of the plans for November. We're really fortunate that our local post office, the downtown location is just two blocks away and I have a good relationship with the postmaster. And I literally, for the past two days have been communicating with several of their managers about what we can do to make sure that ballots [will get there on time].”<sup>75</sup>

Denise Lieberman said, “We know because of the significant anticipated increases in absentee ballots, the business class mailings that the postage prepaid requires means that even voters who are very diligent about casting, completing, finding a notary to get their ballot notarized well ahead of time may still find that their ballot returns too late to be counted. Missouri law is explicit. Any ballot received after the close of polls election day may not be counted.”<sup>76</sup>

Denise Lieberman also speaking about mail-in concerns said, “we're seeing controversy around the postal service all over the country. And we now know that postal workers are not working overtime anymore. And we are seeing significant delays in the mail. I mean, particularly with respect to absentee ballots. And again, this is no denigration of the incredible work that our local election officials are doing. They are literally inundated with an enormous increase in requests for mail-in ballots and absentee ballots. And need the financial and institutional support from the state, and actually from the federal government as well, to be able to just even start to process that stuff in a timely manner.”<sup>77</sup>

Ms. Lieberman indicated, “We know because of the significant anticipated increases in absentee ballots, the business class mailings that the postage prepaid requires means that even voters who are very diligent about casting, completing, finding a notary to get their ballot notarized well ahead of time may still find that their ballot returns too late to be counted.”<sup>78</sup>

Mr. Schoeller emphasized that precautions are being taken and it is important to not scare voters into thinking otherwise.<sup>79</sup> He also discussed the issues of votes not being counted due to mail delays, “we don't want too many people to vote by mail because we don't want to overwhelm the mail system in terms of the US Postal Service and or office, or suddenly ballots are not returned”<sup>80</sup>

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<sup>75</sup> Lennon Testimony, MO August 13 Briefing, p.17.

<sup>76</sup> Lieberman Testimony, MO July 16 Briefing, p.8.

<sup>77</sup> Lieberman Testimony, MO July 16 Briefing, p.12.

<sup>78</sup> Ibid, p.8.

<sup>79</sup> Schoeller Testimony, MO August 13 Briefing, p.8.

<sup>80</sup> Ibid, p.10.

Although Mr. Schoeller advocated for at least the option of mail-in voting, he said, “we’re not prepared yet to be able to make that complete transition, to voting by mail as opposed to voting in person”<sup>81</sup>

Mr. DeGregorio echoed the common concern of a majority of the panelists saying, “I want to mention my concerns about the US postal service”<sup>82</sup> He identified “major funding issues” and the “difficulties of mailing a first-class letter across town”<sup>83</sup> and stated, “One study estimates that in past elections, even before this one, many election jurisdictions had 1% or over of ballots not delivered to them on time to be counted. 1% can make a difference in a lot of election contests. The 1% non-delivery rate may even be exceeded if more people vote by mail.”<sup>84</sup>

### C. Voter Fraud

Mr. Roland spoke about voter fraud and said,

I talked to dozens of people who had been improperly approached with people trying to, shall we say, ‘assist’ them in casting absentee ballots. I also talked to several former employees of the election board there in St. Louis, who said that someone associated with the campaign would routinely bring in stacks, dozens of ballots at a time, absentee ballot envelopes at a time and drop them off at the election authority. And then those would be counted even though that was contrary to Missouri law. The judicial opinion in *Franks v. Hubbard* did actually point out that one of the central problems was that the Board of Election Commissioners itself was improperly applying our absentee ballot laws. We identified 246 ballots that the election authority counted unlawfully in that election, and only 4,316 votes were cast. And the margin of victory was only 90 votes.<sup>85</sup>

Mr. DeGregorio also testified that voter fraud is not merely hypothetical, but a current concern, “Just last week, a US postal worker in West Virginia pled guilty to voter fraud by intentionally changing ballots because of political affiliation.”<sup>86</sup> He further commented this has also been an issue in the past; in the 1980s and 1990s, there were “certainly cases of voter fraud”<sup>87</sup>

Mr. DeGregorio also told the committee how notaries can be involved in voter fraud, “St. Louis is an example in the 2018 election and other elections, but in recent elections where there’s been voter fraud by notaries, where the parties and the candidates and the organizations get a notary that

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<sup>81</sup> Ibid., 8.

<sup>82</sup> DeGregorio Testimony, MO July 16 Briefing, p.24.

<sup>83</sup> Ibid., 25.

<sup>84</sup> Ibid.

<sup>85</sup> Roland Testimony, MO June 25 Briefing, p.31.

<sup>86</sup> DeGregorio Testimony, MO July 16 Briefing, p.25.

<sup>87</sup> Ibid., 28.

they can control to harvest ballots and to get ballots, and then to mark these ballots, or they send in fraudulent request.”<sup>88</sup>

Mr. Roland testified that in a special election in St. Louis, 46% of the votes were unlawfully counted.<sup>89</sup> He discussed other issues such as missing signatures, incorrect personal information, lack of notarizations, etc.<sup>90</sup> He also noted that although some people argue about still counting these votes, these requirements “exist for a reason,” which is to protect against fraud.<sup>91</sup>

Mr. Roland also told the committee that he “presented the [St. Louis] election board with statistical evidence showing really, I mean really unusual patterns of absentee ballot activity relating with certain campaigns, going back for years, and the election board turned a blind eye to it.”<sup>92</sup> Mr. Roland called into question the claim that there is “not widespread electoral fraud,” when in fact the issue might be that it simply goes undetected, and is “definitely an issue that's out there and it can change the outcome of elections.”<sup>93</sup>

Mr. von Spakovsky spoke on the issue of voter fraud, “There are numerous cases involving absentee ballot fraud and voters being targeted with coercion or having their ballots stolen or filled out by others.”<sup>94</sup> He pointed to a recent example in New Jersey, “Such problems were encountered in Paterson, New Jersey, after it made the mistake of switching to an all-mail process for its recent municipal election, which also had a very high, unacceptable rejection rate. Four locals have already been criminally charged in an absentee ballot fraud scheme and a new election has been ordered.”<sup>95</sup> Mr. von Spakovsky’s testimony claimed it is naive to think that just because mail-in voting fraud is not already “widespread,” that an expansion in mail in voting will not lead to an increase in voter fraud.<sup>96</sup>

Mr. von Spakovsky also directly addressed two other cases in Chicago and New York.<sup>97</sup> He said those impacted by mail-in voting, “were first-time voters or otherwise less informed or lacking in

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<sup>88</sup> Ibid., 28.

<sup>89</sup> Roland Testimony, MO June 25 Briefing, p.35.

<sup>90</sup> Ibid.

<sup>91</sup> Ibid.

<sup>92</sup> Ibid.

<sup>93</sup> Ibid

<sup>94</sup> Von Spakovsky Testimony, MO August 27 Briefing, p.8.

<sup>95</sup> Ibid., 6.

<sup>96</sup> Ibid.

<sup>97</sup> Ibid.

knowledge of the voting process, the infirm, the poor, and those with limited skills in the English language”<sup>98</sup>

Mr. Roland stated that “even a very well-designed absentee ballot system requires clear-eyed principled oversight of that system or else it will still be susceptible to abuse and it may call into question the legitimacy of the election results.”<sup>99</sup>

## **D. Voters with Disabilities**

Amber McReynolds, an expert on election administration and policy, said, “the issue that a lot of voters with accessible challenges have is transportation to get from A to B, right? So COVID has exasperated that, but we knew that before COVID, right?”<sup>100</sup>

She said of her organization’s work, “When we meet people where they are and empower them with the option at home to vote in a safe and secure way and return their ballot with prepaid postage. We have essentially created a process that they don't have to worry about the transportation gap. They don't have to worry about somebody else because they can access that ballot and vote independently of others.”<sup>101</sup>

McReynolds claimed the same thing is true of some of the other systems, like for instance, “California and Utah have created a remote accessible vote by mail program for voters that need accessible technology to actually vote their ballot. They can now do that at home. They have to print the ballot at the end, so it's not an electronic delivery back, but they print the ballot at the end, insert into an envelope, and then they can return it that way. That's on the books in a few different states.”<sup>102</sup>

Speaking about accommodations for voters with disabilities, Eric Fey said, “I would just add curbside voting under Missouri law is available for disabled voters at every polling place. That has been the case for quite a long time. I will say, though, that curbside voting is labor intensive and at a polling place, when a voter does vote curbside, it takes two election judges away from the

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<sup>98</sup> Ibid.

<sup>99</sup> Roland Testimony, MO June 25 Briefing, p.31.

<sup>100</sup> McReynolds Testimony, MO June 25 Briefing, p.20.

<sup>101</sup> Ibid.

<sup>102</sup> Ibid.

polling place. And that usually leads to the line backing up. That's why we do encourage voters who want to vote in their car curbside to come to our main office.”<sup>103</sup>

### **III. FINDINGS AND RECOMMENDATIONS**

Among their duties, advisory committees of the U.S. Commission on Civil Rights are authorized to advise the Commission (1) concerning matters related to discrimination or a denial of equal protection of the laws under the Constitution and the effect of the laws and policies of the Federal Government with respect to equal protection of the laws and (2) upon matters of mutual concern in the preparation of reports of the Commission to the President and the Congress.<sup>104</sup>

The Missouri Advisory Committee presents this summary of testimony with limited comment from the committee. The selected testimony was identified by committee members and is presented in a bi-partisan effort to summarize key points. The committee acknowledges not all the testimony was captured. The committee will hold at least one post-election briefing to collect testimony from experts and stakeholders. Following the closing of the record, the Committee will evaluate all the testimony received over the five briefings and issue a report to the United States Commission on Civil Rights with findings and recommendations.

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<sup>103</sup> Fey Testimony, MO July 16 Briefing, p.18.

<sup>104</sup> 45 C.F.R. § 703.2.

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## **Missouri Advisory Committee to the United States Commission on Civil Rights**



### **U. S. Commission on Civil Rights**

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